

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NORTH DAKOTA

In re

Andy Baron Elliott
Sandra Leah Elliott

Bankr. No. 21-30420

Debtors

Chapter 7

**MOTION TO EXTEND THE TIME TO FILE A MOTION TO DISMISS AND FILE A
COMPLAINT OBJECTING TO DISCHARGE**

COMES NOW the Acting United States Trustee (UST) through her undersigned attorney and moves the Bankruptcy Court to extend the time to file a motion to dismiss under 11 U.S.C. § 707(b)(1), based on the totality of circumstances under subsection (b)(3) and to file a complaint objecting to the discharge under § 727. In support of her motion, she states the following:

1. The motion to extend the deadline to file an objection to discharge is filed pursuant to FED. R. BANKR. P. 4004(b)(2) . The motion to extend the time to file a motion to dismiss is filed pursuant to FED. R. BANKR. P. 1017(e). The motion to extend the deadline to file an objection to discharge is filed pursuant to FED. R. BANKR. P. 4004(b)(2) . The Court has jurisdiction over this motion pursuant to 28 U.S.C. §§1334 and 157(a), and FED.R.BANKR.P. 5005. This proceeding is a core proceeding.

2. The Debtors filed a chapter 13 case on September 28, 2021 and converted to chapter 7 on January 9, 2024.

3. FED. R. BANKR. P. 1017(e) provides that a motion to dismiss under Section 707(b) may be filed no later than 60 days after the first date set for the meeting of creditors, unless a request is filed before the expiration period to extend the period for cause. The deadline to file a motion is January 31, 2025.

4. FED. R. BANKR. P. 4004(b)(1) provides that a motion to extend the period of time to file a complaint objecting to the Chapter 7 debtor's discharge may be granted “for cause” if the

motion to extend the period is filed before the deadline for filing an objection to the discharge.

The deadline to file a complaint objecting to discharge is January 31, 2025.

5. The Chapter 7 Trustee referred this case to the UST on March 25, 2024 and discussed the case on March 27, 2024 with UST personal. The UST sent an initial inquiry letter to the Debtors on March 28, 2024. Despite numerous follow up inquiries on April 12th, April 29th, May 6th, May 13th, May 23rd, June 10th and June 26th, the Debtors have not yet provided some of the documentation contained in the initial inquiry or responded to subsequent requests that arose from the partial responses that have been provided.

6. The Court granted the United States Trustee's motion to compel the production of documents on August 2, 2024. See Att. Ex. 1. The Debtors failed to comply with the Order.

7. The UST has filed a complaint under 11 U.S.C. § 727(a)(6) for the willful failure of the Debtors to comply with the Court's Order. The Chapter 7 Trustee commenced his own complaint under Section 727 (Adv. 24-7012), which is set for trial on April 21, 2025. The UST wishes to preserve any rights to bring her own actions for other cause under Section 727 or under Section 707(b) while that matter is pending and as long her document requests remain outstanding. Many of the outstanding documents subject to the Order have been requested since the original March inquiry. While the Debtors' counsel has made limited attempts to collect documents, the Debtors appear to have taken no action. The Debtors should not benefit from failing to comply with the Court's Order.

WHEREFORE, the United States Trustee requests that the Court extend the period to file a complaint objecting to the discharge and the period to file a motion to dismiss be continued to May 31, 2025.

Dated: January 30, 2025

MARY R. JENSEN
ACTING UNITED STATES TRUSTEE
Region 12

/s/ Sarah J. Wencil

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NOTICE OF MOTION TO EXTEND THE TIME

The **United States Trustee's Office** has filed a Motion to Extend the Time in the above-captioned Chapter 7 case. **Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to grant the United States Trustee's motion, or if you want the Court to consider your views on the motion, then within 14 days, you must file with the **Bankruptcy Clerk**, whose address is **Quentin N. Burdick United States Courthouse, 655 1st Avenue N., Suite 210, Fargo, North Dakota 58102-4932**, a response explaining your position.

If you file and serve a response by the date stated above, the Court will schedule a hearing and give you written notice of the date, time, and location of that hearing. Otherwise, the Court may decide that you do not oppose the relief requested by the United States Trustee's Office and may enter an order granting the relief.

Dated: January 30, 2025

MARY R. JENSEN
ACTING UNITED STATES TRUSTEE
Region 12
/s/ Sarah J. Wencil
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CERTIFICATE OF SERVICE

The undersigned states under penalty of perjury that she electronically filed the motion to extend the discharge; thereby generating service by CM/ECF upon debtor's counsel and the chapter 7 trustee. A copy of the objection was sent by U.S. Mail on the debtors and counsel for the debtors at the following addresses:

Andy Baron and Sandra Leah Elliott
1408 West Pheasant Ridge Dr
Watford City, ND 58854

Chad Everett Anderson
Chad Anderson Law Firm
407 East Avenue C.
Bismarck, ND 58503

Dated: January 30, 2025

/s/ Audrey Williams
Audrey Williams
Office of the US Trustee